

Office Supreme Court, U. S.

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IN THE  
**Supreme Court of the United States**

OCTOBER TERM, 1923.

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No. 736.

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WONG DOO, PETITIONER,  
v.  
THE UNITED STATES OF AMERICA.

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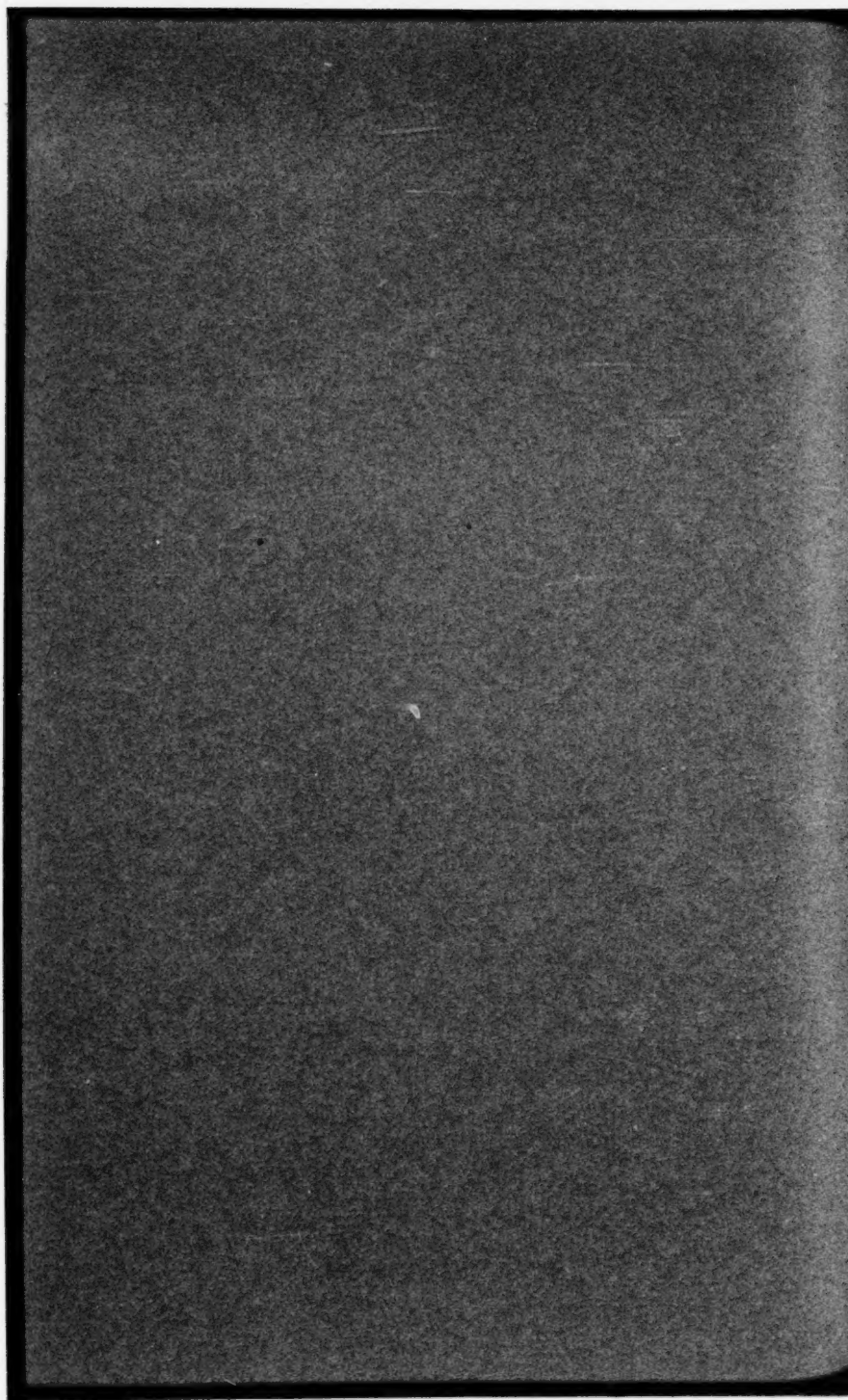
**Supplementary Brief For Petitioner.**

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III  
WANT OF DUE PROCESS OF LAW.

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JACKSON H. RALSTON,  
GEORGE W. HOTT,  
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**WANT OF DUE PROCESS OF LAW.**

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We have filed with the clerk the copy of the proceedings of the Immigration service which was filed as Exhibit A to the alien's petition for a writ of habeas corpus in the United States District Court for the northern District of Ohio, August 8, 1922. We now point out succinctly some of the specific matters therein contained upon which the petitioner based his allegations that the hearing before the Department of Labor was unfair and not due process of law.

**Immigration Rule.**

Rule 22, subdivision 5, paragraph b of the Immigration Rules in force at the time of this hearing (but slightly amended and adopted as part of Rule 18, February 1, 1924) provides as follows:

"At the beginning of the hearing under the warrant of arrest the alien shall be allowed to inspect the warrant of arrest and all the evidence on which it was issued, and shall be apprised that he may be represented by counsel. The alien shall be required then and there to state whether he desires counsel or waives the same,

and his reply shall be entered on the record. If counsel be selected, he shall be permitted to be present during the conduct of the hearing, and to offer evidence to meet any evidence presented or adduced by the Government."

### Condition of Evidence.

Wong Sun (father of Wong Doo), and Wong Fee (brother of Wong Doo), and another Chinaman, Chan Yim, were taken into custody on *August 3, 1915*, and on said date an Immigration Inspector (no attorney being present on behalf of the aliens) took statements from the following persons:

- (1) Wong Sun, pages 1 and 7, Second Section of record.
- (2) Wong Fee, page 3 do.
- (3) Daniel A. Mack, page 4 do.
- (4) Sarah Battaglia, pages 5 and 7 do.
- (5) G. G. Fristoe, page 5 do.
- (6) Chan Yim, page 5 do.
- (7) J. J. Joyce, page 7 do.

On August 5, 1915, said inspector took statements from the following persons, no attorney being present and aliens not advised they were entitled to have an attorney:

- (8) A. R. Homer, page 14, Second Section of record.
- (9) David S. Cohen, page 14 do.
- (10) W. W. Boyd, page 14 do.
- (11) A. F. Drews, page 15 do.
- (12) H. J. Friedman, page 16 do.

The foregoing statements were all made before Wong Doo was taken into custody and later incorporated in his record and over the objections of his attorney (pages 53, 54 and 57, Second Section of Record; and pages 8 to 13, First Section of Record), and the Immigration Inspector refused to present said witnesses for cross-examination on request of the alien's attorney (pages 10-13, First Section of Record), and they were not cross-examined.

- (13) On August 13, 1915, a statement was taken from

Wong Sun Chew at San Francisco (page 68, 2d Section), no attorney being present on behalf of the alien and said witness was not presented for cross-examination.

(14) On August 17, 1915, Inspector Philip B. Jones, made an investigation in San Francisco and reported the same to his superior officer. (P. 59, 2d Section of Record.) Said report was incorporated in Wong Doo's record, over the objection of his attorney, and used as evidence against him, although the person making said report was not presented for cross-examination.

Wong Doo was taken into custody August 6, 1915, and some questions asked him (no attorney present) (page 22, 2d Section). The warrant was explained to him on August 10, 1915.

No further testimony was taken until January 15-17, 1916, when the following witnesses were examined in the presence of the alien's attorney:

Chan Yim, page 38, 2d Section of Record.

Wong Sun, page 43, do.

Wong Fee, page 53, do.

Wong Doo, page 55, do.

The testimony of these four witnesses is wholly favorable to the alien's claim.

On August 3, 1915, the Immigration Inspector, without any search warrant or other lawful authority searched the trunk and baggage of Wong Doo and the laundry at which he was residing.

The Inspector claims to have found certain letters and documents in said search, all of which were offered in evidence and incorporated in Wong Doo's record (pages 61 to 79, Second Section of Record), over the objection of his attorney, without any proof having been offered that said letters were written by or to or belonged to said Wong Doo.

Said letters were sent to New York for translation. There is nothing to show that the translation is correct, or that the person who made the translation was qualified, and he was not presented for cross-examination.

The translated copies were nevertheless incorporated into Wong Doo's record.

Wong Doo was discharged on a writ of habeas corpus March 28, 1918, on the ground that the Department had no jurisdiction to arrest him on a departmental warrant under the Immigration Act of February 20, 1907.

He was immediately re-arrested under the Immigration Act of February 5, 1917. No additional testimony was taken except some brief statements for the purpose of introducing in evidence the former record. The entire record, including all of the statements and exhibits presented on the first hearing were offered in evidence by the immigration authorities, and upon such record an order of deportation was issued.

Wong Doo, his father Wong Sun, and his brother Wong Fee, and another Chinaman were arrested at or about the same time. All four cases were heard and determined together. The testimony and exhibits relating to the several cases are all intermixed.

Wong Sun, the father of Wong Doo, first arrived in this country in February, 1899. He became a merchant shortly thereafter. He was a merchant in the Chung Kee Company of San Francisco for 5 or 6 years and up until 1905. He then became a member of the Chong Lee Company, San Francisco, and was a member of said firm at the time of his arrest in August, 1915. He made one trip to China of about 6 or 7 months, departing in November, 1913.

Wong Doo arrived in this country in January 25, 1915, and lived at his father's store in San Francisco until April, 1915, when his father took him to Cleveland and he was immediately placed in the public school (page 17, Second Section) where he attended school for several years.

Respectfully submitted.

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